

This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 01 OF 03 SANTO DOMINGO 002821

SIPDIS

SENSITIVE

DEPARTMENT FOR WHA/CAR (MCISAAC), WHA/PPSC, EB/OMA;
TREASURY FOR LAMONICA, RTOLOUI; DHS PASS MIAMI FOR
RFUENTES; DHS ALSO FOR CIS - CARLOS ITURREGUI

E.O. 12958: N/A

TAGS: [EFIN](#) [ECON](#) [PGOV](#) [PREL](#) [DR](#)

SUBJECT: DOMINICAN BANKING SERIES # 06: "RAMONCITO" GOES TO
TRIAL

REF: SANTO DOMINGO 2223

1. (U) This is cable # 6 in a periodic series on the
banking sector in the Dominican Republic. Sensitive but
unclassified, entire text.

SIPDIS

"RAMONCITO" SENT TO TRIAL IN THE BANINTER CASE

What's new: a summary of the bank cases in the Dominican
Republic

In a mixed decision issued on April 26, Judge of Instruction
Eduardo Sanchez Ortiz ruled that enough evidence of
wrongdoing exists against Ramon Baez Figueroa and Marcos Baez
Cocco to send them to trial on charges of criminal fraud and
mismanagement of Baninter. Sanchez Ortiz dismissed all
criminal charges against Luis Alvarez Renta, Vivian Lubrano
de Castillo and Jesus Troncoso Ferrua. Attorneys for the
GODR and the Ramon Baez and Marcos Baez defense team have
filed appeals. Luis Alvarez Renta's legal team has placed
full page ads in the local press saying, in essence, "I told
you so - I didn't do it."

The Bancredito case continues, with the assigned judge of
instruction compelling witnesses to appear and compiling
evidence in the case. Banco Mercantil became the third bank
to have its executives implicated in fraudulent activities.
On April 16, attorneys for the GODR Central Bank filed
charges against six former executives. The new case is also
with a judge of instruction.

----- -
Baninter: decisions, appeals and new charges
----- -

Judge Sanchez Ortiz's decision that sufficient evidence
exists to indict Ramon Baez and Marcos Baez comes after 9
months of work. He was slowed by the complexity of the case,
but also hampered by legal maneuvering by the Baez defense
team, the Alvarez Renta defense team, and the Central Bank
(CB) attorneys. The technically complicated case required
numerous requests for extension by Sanchez Ortiz in order to
review voluminous documentation and learn the basics of how
to treat complex fraud cases. The legal wrangling by all
parties was par for the course, for these are high powered
defendants, with high powered and high priced attorneys.

The judge's decision to drop all criminal charges against
Luis Alvarez Renta is disappointing but not unexpected.
Alvarez Renta was the only defendant who did not hold an
executive position within Baninter. More surprising and
disappointing is the decision to drop all criminal charges
against Lubrano and Troncoso, respectively vice president and
legal counsel for the bank. CB attorneys have appealed the
decision of Sanchez Ortiz to drop all charges against Alvarez
Renta, Lubrano and Troncoso, so the case against them remains
active.

The CB attorneys have also appealed the jurisdiction of the
appeals court. They took this portion of their appeal
directly to the Dominican Supreme Court, asking that any
appeals to the Baninter case be removed from the First Penal
Court of Appeals to another Dominican Court of Appeals.
Meanwhile, the Baez defense team filed a second petition to
recuse Sanchez Ortiz from the case (an earlier petition was
denied). Sanchez Ortiz made his substantive decision in the
case before the second recusal petition was heard. The
recusal petition went to the First Penal Court of Appeals for
argument on April 30, and the Court announced on May 3 that
it would stay its decision on the recusal issue, until the
Supreme Court ruled on the CB's appeal to remove all appeals
from its purview. The Baez defense team covered all bases,
also appealing the indictment of Ramon Baez and Marcos Baez.

The CB attorneys have filed another criminal complaint

against a Baninter actor. On May 3, the team filed, with the court administrator for criminal cases, a complaint alleging embezzlement by Americo Bogaert Marra, former Baninter vice president in charge of credit card operations. The complaint alleges Bogaert embezzled, stole, or otherwise committed fraud in the amounts on RD \$1,209,784 pesos (about USD 26,000) and USD 10,380.

Justice Begins to Work

These events represent an initial and tentative success for the Dominican judicial system. Many individuals (government officials, private businesspeople, attorneys, and others) told us that they did not expect any of the players to be indicted. Two out of five isn't a great ratio of indictments to dismissals, but it beats zero out of five on any day. A second positive is the persistence of the CB attorneys. The immediate appeal of the dismissal of the case against Alvarez Renta, Lubrano and Troncoso, along with the filing of a second complaint against a former Baninter executive within a week of Sanchez Ortiz's decision, indicates to all that the CB lawyers intend to keep the fire stoked and the pressure on. The most important audience may be the general public - who now see through press reports that the GODR is not letting bank fraud cases slip quietly out to sea without at least making an attempt to keep on shore and active.

Bancredito and Banco Mercantil: Two cases in the early stages

The Bancredito case continues in the preliminary stages with Judge Annikssa Serra de la Mota serving as the judge of instruction charged with gathering evidence in the case. In April Judge Serra de la Mota ordered the arrest of former Bancredito President Manuel Arturo Pellerano and former vice president Juan Felipe Mendoza. The arrest warrants were issued to compel the former executives to appear and testify in front of her. Mendoza complied, subjected himself to interrogation by the judge and was released. After a full day of questioning, he told the press, "I'm free and I hope to remain free because no innocent person should be detained."

The warrant against Pellerano could not be served because he was not in the Dominican Republic. Mendoza told the press that Pellerano was out of the country with his ailing father, who is receiving unspecified medical treatment. Pellerano has yet to appear in front of Judge Serra de la Mota.

The criminal charges against former Banco Mercantil executives mark the third bank targeted by the CB attorneys within the past year. On April 16, CB attorneys filed criminal fraud charges against six former Mercantil executives, alleging fraud in the amount of RD \$6.5 billion pesos. Charges were brought against former Mercantil President, Andres Alejandro Aybar Baez; vice president of administration and finance, Evelyn Perez Montandon; vice president of operations and technology, Ramon Aref Henriquez Risk; vice president in charge of auditing and security, Jose Manuel Mateo Contreras; and vice president of financial control, Rafael Maximiliano Moya Hernandez.

The alleged fraud took place during 2002 and 2003, prior to the October 2003 sale of the majority of Mercantil's shares to the Republic Bank Limited of Trinidad and Tobago. The CB complaint avers that financial assistance given to Banco Mercantil by the Central Bank at a time when Mercantil was suffering liquidity problems, went, in large part, to line the pockets of the bank executives.

Continued movement in the Bancredito and Banco Mercantil cases is a further sign of the GODR's attempts to prosecute complex banking and fraud cases. These types of cases are still new to the Dominican judicial system, and there will be hurdles to obtaining convictions. Nevertheless, exposing more judges to complex bank fraud cases, attempting to hold criminal bankers accountable for their actions, and working towards the return of some of the misappropriated funds to the CB coffers, can all be seen as signs of progress.

Where do we go from here?

The Dominican government's civil case in the Southern District of Florida against Alvarez Renta remains active. So does the criminal investigation into possible money laundering by the Baninter principals. Embassy officers continue to stress the importance of convictions in the Dominican Republic and remind contacts that any money laundering case in the U.S. will be easier to prove if there are convictions in the Dominican Republic. We also continue to emphasize the devastating effect on the economy of the bank frauds.

Even so, we are all too aware that many Dominicans have very little faith in their judicial system (particularly when it comes to corruption cases) and that even as the cases move forward through the courts, convictions and appropriate punishment and restitution are not assured.

12. (U) Drafted by Angela Kerwin.

13. (U) This report and others in the series are available on the classified SIPRNET at <http://www.state.sgov.gov/p/wha/santodomingo> along with extensive other material.
HERTELL